

Memo

To: **Montana Wheat & Barley Committee**

From: Terry Whiteside

Date: March 17, 2006

Re: **Transportation Report**



Schweitzer wants to sue over rail rates

Gov. Brian Schweitzer said he's going to ask lawmakers next year for money to sue the federal government for failing to protect Montana's grain farmers from price gouging by railroad monopolies like BNSF Railway.

BNSF, formerly Burlington Northern Railroad, charges higher rates to Montana farmers, according to graphs provided by Schweitzer, than it does to farmers in Midwestern states that have competitive grain markets. In some cases, Montana's farmers, many of whom have no shipping options other than BNSF, are paying the railroad up to 50 percent more, Schweitzer said.

Monopoly in Montana

That means Midwestern farmers are paying less to ship their grain farther, he said, all because Midwestern farmers have a competitive market and Montana's have a monopoly.

"That has to do with how much they think they can get away with charging us," the governor told a meeting Thursday of the state's Rail Service Competition Council.

No one from BNSF was at the meeting, although a local representative was invited.

Gus Melonas, a company spokesman in Seattle, said the railroad will take its rate structure in Montana "under further review."

Most of Montana's grain is shipped by rail to ports on the West Coast, where it is loaded onto barges and shipped overseas, with much of it going to Asia.

Years ago when debating new laws for railroads that would allow consolidation to save a then-slumping industry, Congress promised to protect shippers from monopolies, Schweitzer said. But the country's Surface Transportation Board, which regulates rail rates in the country, isn't doing its job, he charged.

Close ties

He said the board has too close a relationship with the railroads it oversees, as evidenced, he said, by the fact that the last board chairman, Roger Nober, is now affiliated with the railroad. Nober works for a law firm that does some lobbying for BNSF. Records show Nober himself is not a registered lobbyist.

"They have refused to do their job," Schweitzer said of the panel, comparing the board to basketball referees who huddle with the hometown team before officiating a game.

According to Schweitzer's graphs, farmers shipping grain from Sioux City, Iowa, to West Coast ports pay 85 cents a bushel to ship their product 1,796 miles, for a total of \$1.67 per mile. Montana farmers shipping from Sidney, in contrast, pay 89 cents a bushel to ship their grain 911 miles, a total of \$3.29 a mile.

The discrepancy means Montana farmers paid a total of \$75 million more last year to ship the state's 180 million bushel grain harvest, Schweitzer said.

Schweitzer said it doesn't pay to sue BNSF, especially when the federal government is supposed to prevent such pricing.

He told reporters after the meeting he will ask the 2007 Legislature for money to begin suing the Surface Transportation Board.

"We have three options in Montana," he said "We can ship (our grain) on BNSF, eat it or truck it."

Despite its prices, the railroad is cheaper than loading the grain onto semi trailers and driving it to the West Coast, Schweitzer said.

The announcement came the same day Schweitzer said Montana is going to take over the stalled cleanup of a BNSF-contaminated rail yard in Livingston.

Schweitzer said the cleanup decision was not in retaliation for BNSF's rates.